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**UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA**

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SANDRA KIRKMAN, CARLOS
ALANIZ, individually and successors-in-
interest to JOHN ALANIZ, deceased,

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Plaintiff,

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vs.

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STATE OF CALIFORNIA, RAMON
SILVA, and DOES 1-10, inclusive,

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Defendants.

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Case No. 2:23-cv-07532-DMG-SSC
[Hon. Dolly M. Gee]

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR AN
ORDER CERTIFYING
DEFENDANTS' INTERLOCUTORY
APPEAL AS FRIVOLOUS AND
RETAINING JURISDICTION**

[PROPOSED] ORDER

Before the Court is Plaintiffs' Motion for an Order Certifying Defendants' Interlocutory Appeal as Frivolous and Retaining Jurisdiction. Having reviewed the memoranda submitted by the parties, IT IS ORDERED as follows:

5 This Court finds that the Interlocutory Appeal filed by Defendants of this
6 Court’s order denying in part Defendants’ motion for summary judgment is an
7 appeal from a denial of summary judgment on the grounds of the existence of
8 disputed questions of material fact. “[I]mmediate appeal from the denial of summary
9 judgment on a qualified immunity plea is available... when the appeal presents a
10 ‘purely legal issue...’ However, instant appeal is not available ... when the district
11 court determines that factual issues genuinely in dispute preclude summary
12 adjudication.” *Ortiz v. Jordan*, 131 S.Ct. 884, 891 (2011). The Ninth Circuit has
13 held that “an order denying qualified immunity on the ground that a genuine issue of
14 material fact exists is not a final, immediately appealable order.” *Maropoulos v. Cnty.*
15 *of Los Angeles*, 560 F.3d 974, 975 (9th Cir. 2009) (internal citations omitted). As
16 such, the instant appeal is not available, and this Court retains jurisdiction over this
17 matter. The trial schedule remains in place as currently set.

IT IS SO ORDERED.

21 DATED:

Honorable Dolly M. Gee
United States District Court Judge